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GMAC Halts Foreclosures in 23 States for Review

By DAVID STREITFELD SEPT. 20, 2010

GMAC Mortgage, one of the country's largest and most troubled home lenders, said on Monday that it was imposing a moratorium on many of its foreclosures as it tried to ensure they were done correctly.

The lender, which specialized in subprime loans during the boom, when it was owned by General Motors, declined in an e-mail to specify how many loans would be affected or the "potential issue" it had identified with them.

GMAC said the suspension might be a few weeks or might last until the end of the year.

States where the moratorium is being carried out include New York, Connecticut, New Jersey, Illinois, Florida and 18 others, mostly on the East Coast and in the Midwest. All of the affected states are so-called judicial foreclosure states, where courts control the interactions of defaulting homeowners and their lenders.

Since the real estate collapse began, lawyers for homeowners have sparred with lenders in those states. The lawyers say that in many cases, the lenders are not in possession of the original promissory note, which is necessary for a foreclosure.

GMAC, which has been the recipient of billions of dollars of government aid, declined to provide any details or answer questions, but its actions suggest that it is concerned about potential liability in evicting families and selling houses to which it does not have clear title.

The lender said it was also reviewing completed foreclosures where the same unnamed procedure might have been used.

Matthew Weidner, a real estate lawyer in St. Petersburg, Fla., said he interpreted the lender's actions as saying, "We have real liability here."

Mr. Weidner said he recently received notices from the opposing counsel in two GMAC foreclosure cases that it was withdrawing an affidavit. In both cases, the document was signed by a GMAC executive who said in a deposition last year that he had routinely signed thousands of affidavits without verifying the mortgage holder.

"The Florida rules of civil procedure are explicit," Mr. Weidner said. "If you enter an affidavit, it must be based on personal knowledge."

The law firm seeking to withdraw the affidavits is Florida Default Law Group, which is based in Tampa. Ronald R. Wolfe, a vice president at the firm, did not return calls. The firm is under investigation by the State of Florida, according to the attorney general's Web site.

Real estate agents who work with GMAC to sell foreclosed properties were told to halt their activities late last week. The moratorium was first reported by Bloomberg News on Monday. Bloomberg said it had obtained a company memorandum dated Friday in which GMAC Mortgage instructed brokers to immediately stop evictions, cash-for-key transactions and sales.

Nerissa Spannos, a Fort Lauderdale agent, said GMAC represents about half of her business — 15 houses at the moment in various stages of foreclosure.

"It's all coming to a halt," she said. "I have so many nice listings and now I can't sell them."

The lender's action, she said, was unprecedented in her experience. "Every once in a while you get a message saying, 'Take this house off the market. We have to re-foreclose.' But this is so much bigger," she said.

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